

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2301

Introduced by Assembly Member Logue

February 18, 2010

An act to add Section 4291.5 to the Public Resources Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, as amended, Logue. Fire protection: public lands: defensible space.

Existing law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material that is within a very high fire hazard severity zone, as designated by a local agency, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure. Existing law requires a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material, within a state responsibility area, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure. An insurance company that insures an occupied dwelling or occupied structure is authorized to require a greater distance, but this greater distance is prohibited from extending beyond the

property line unless allowed by state law or a local ordinance, rule, or regulation.

This bill would ~~require~~ *authorize* a state public lands management agency, as defined, to establish a discretionary permitting or approval process containing specified elements, to consider an application from a person to maintain defensible space on state public lands if that person's defensible space requirement encroaches onto state public lands. The bill would authorize a state public lands management agency to impose conditions or limitations on maintenance of defensible space or that minimize any other adverse impact to the environment.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4291.5 is added to the Public Resources
2 Code, to read:
3 4291.5. (a) For the purposes of this section, the following
4 terms shall apply:
5 (1) "Qualified organization" means a homeowners association,
6 fire safe council, or other bona fide organization dedicated to fire
7 protection and prevention, as determined by a state public lands
8 management agency.
9 (2) "State public lands" means lands owned in fee title by a state
10 public lands management agency.
11 (3) "State public lands management agency" means the
12 Department of Forestry and Fire Protection, Department of Parks
13 and Recreation, State Lands Commission, Department of
14 Transportation, ~~or~~ Department of Water Resources, *or any of the*
15 *state's land conservancies.*
16 (b) Consistent with Section 51184 of the Government Code, a
17 state public lands management agency ~~shall~~ *may* establish a
18 discretionary permitting and approval process to consider an
19 application from a person subject to subdivision (a) of Section
20 51182 of the Government Code or Section 4291 to maintain
21 defensible space on state public lands if that person's defensible
22 space requirement encroaches onto state public lands.
23 (c) The permitting or approval process shall include, but not be
24 limited to, both of the following elements:

1 (1) A publicly available application posted on the agency's
2 Internet Web site. The agency may require that reasonable
3 information be submitted with the application.

4 (2) Timelines for the review and consideration of the application.
5 At a minimum, an agency shall determine whether an application
6 is complete within 30 calendar days of receipt. Once deemed
7 complete, an agency shall consider and act on the application
8 within 45 days.

9 (d) A qualified organization acting on behalf of more than one
10 person subject to subdivision (a) of Section 51182 of the
11 Government Code or Section 4291 may apply for approval.

12 (e) The maintenance of the defensible space shall comply with
13 defensible space guidelines adopted by the State Board of Forestry
14 and Fire Protection or the Department of Parks and Recreation,
15 and Section 51184 of the Government Code.

16 (f) A state public lands management agency may require an
17 applicant pursuant to subdivision (b) to maintain liability or other
18 insurance or bonding in a form and amount determined by the
19 agency. The agency shall require an applicant to indemnify the
20 state from any and all actions or claims filed against the state as a
21 direct or indirect result of the issuance of a permit or approval.

22 (g) A state lands management agency may impose conditions
23 or limitations on the maintenance of defensible space pursuant to
24 Section 51184 of the Government Code or subdivision (i) of
25 Section 15304 of Title 14 of the California Code of Regulations
26 or that minimize any other adverse impact to the environment,
27 including, but not limited to, wildlife habitat, water quality, and
28 sensitive species.

29 (h) In its review and consideration of an application pursuant
30 to subdivision (b), a state public lands management agency may
31 consider other flame ignition or flammability risk factors, such as
32 fuel loading, slope, and the building materials of a structure or
33 dwelling, and the extent to which these factors may, individually
34 or cumulatively, present greater risks than vegetation or fuel on
35 adjacent state public lands.